

### **REMARKS**

This is a full and timely response to the outstanding Decision on Appeal dated November 2, 2007. Through this response, claims 1-74 have been canceled without prejudice, waiver, or disclaimer, and new claims 75-94 have been added without the introduction of new matter. Applicants respectfully submit that the subject matter as claimed can be found in the specification and figures. For example, with regard to claims 75-83, 92 and 93, attention is respectfully directed to Figures 22-27 and the corresponding specification. With regard to claims 75, 84-87, 92, and 93, attention is respectfully directed to Figures 17-20 and the corresponding specification. With regard to claims 75, 88-91, and 94, attention is respectfully directed to Figures 5-13 and the corresponding specification. Reconsideration and allowance of the application and pending claims 75-94 are respectfully requested.

#### **I. Claim Rejections - 35 U.S.C. § 102(e)**

According to the Board Decision, claims 1-4, 19, 20, 22-24, 62-65, 67-69, 72 and 74 are rejected under 35 U.S.C. § 102(e) as allegedly anticipated by *Rodriguez*. ("*Rodriguez*," U.S. Pub. No. 2005/0071882). Applicants respectfully submit that in view of the new claims, the rejection is rendered moot.

#### **II. Claim Rejections - 35 U.S.C. § 103(a)**

Claims 1, 5 and 63 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Haddad* ("*Haddad*," U.S. Pat. No. 5,555,441) and *Hooper* ("*Hooper*," U.S. Pat. No. 5,414,455). Claim 6 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Haddad* and *Greenwood*. ("*Greenwood*," U.S. Pat. No. 5,568,181). Claims 7-18, 21, 26-50 and 53-61 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Haddad*, *Hassell* ("*Hassell*," U.S. Pub. No. 2004/0128685), and

*Seazholtz* (“*Seazholtz*,” U.S. Pat. No. 5,812,786). Claim 25 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Haddad*, *Hassell*, *Seazholtz*, and *Kitsukawa* (“*Kitsukawa*,” U.S. Pub. No. 2001/0013125). Claims 51 and 52 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Haddad*, *Hassell*, *Seazholtz*, and *Okamoto* (“*Okamoto*,” U.S. Pat. No. 6,901,385). Claims 63, 65, and 66 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Haddad* and *Wahl* (“*Wahl*,” U.S. Pat. No. 5,898,456). Claim 70 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Haddad*. Claim 71 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Haddad* and *Okamoto*. Claim 73 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Haddad* and *Seazholtz*. Applicants respectfully submit that these rejections have been rendered moot in view of the new claims.

### **III. Canceled Claims**

As identified above, claims 1-74 have been canceled from the application through this response without prejudice, waiver, or disclaimer. Applicants reserve the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

### **IV. New Claims**

As identified above, claims 75-94 have been added into the application through this response. Applicants respectfully submit that these new claims describe embodiments of an invention novel and unobvious in view of the art of record and, therefore, respectfully request that these claims be held to be allowable. For instance, independent claims 75, 92, and 94 are reproduced below (emphasis added):

75. A system comprising:

a digital home communication terminal (DHCT) configured to receive media content from a remote location over a **hybrid fiber coaxial (HFC) network**, the DHCT comprising:

a hard disk drive;  
a memory having application software; and

**a processor configured with the application software to provide a first graphics user interface (GUI) comprising download options for the reception of media content and a second GUI comprising plural media content choices for which the download options do and do not pertain, the processor further configured with the application software to request from the remote location a download of a first media content to the hard disk drive at a defined download rate using bandwidth reclaimed from excess video on demand bandwidth, the defined download rate independent of a playback rate of the media content, the first media content selected by a user from the second GUI.**

92. A method, comprising:

**providing a first graphics user interface (GUI) at a digital home communications terminal (DHCT), the first GUI comprising download options for the reception of media content;**

**providing a second GUI at the DHCT, the second GUI comprising plural media content choices for which the download options do and do not pertain; and**

**requesting a download of a first media content over a hybrid fiber coaxial (HFC) network from a remote location to a hard disk drive coupled to the DHCT at a defined download rate using bandwidth reclaimed from excess video on demand bandwidth, the defined download rate independent of a playback rate of the media content, the first media content selected by a user from the second GUI.**

94. A system, comprising:

a storage device comprising one of a digital video disk (DVD) or compact disk (CD);

a tuner configured to receive broadcast or on-demand media content;  
a memory with application software; and

**a processor configured with application software to provide a graphics user interface (GUI) that enables a user to archive broadcast or on-demand media content downloaded to one of the DVD or CD, the broadcast or on-demand media content archived based on metadata associated with the broadcast or on-demand media content, the GUI further configured to enable the user to search for media content stored on the DVD or CD.**

Applicants respectfully submit that claims 75, 92, and 94 are allowable over the art of record for at least the reasons that the art of record does not disclose, teach, or suggest at least

the above-emphasized claim features. Accordingly, Applicants respectfully request that claims 75, 92, and 94 be allowed.

Because independent claims 75 and 92 are allowable over the art of record, dependent claims 76-91 and 93 are allowable as a matter of law for at least the reason that the dependent claims 76-91 and 93 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

**CONCLUSION**

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

/dr/

---

David Rodack  
Registration No. 47,034

**THOMAS, KAYDEN,  
HORSTEMEYER & RISLEY, L.L.P.**  
Suite 1500  
600 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500